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COMMITTEE ON THE PEACEFUL USES OF OUTER SPACE

LEGAL SUBCOMMITTEE

Thirty-first session

SUMMARY RECORD OF THE 558th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 3 April 1992, at 10.30 a.m.

Chairman: Mr. MIKULKA (Czechoslovakia)

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The meeting was called to order at 10.45 a.m.

MATTERS RELATING TO THE DEFINITION AND DELIMITATION OF OUTER SPACE AND TO THE CHARACTER AND UTILIZATION OF THE GEOSTATIONARY ORBIT, INCLUDING CONSIDERATION OF WAYS AND MEANS TO ENSURE THE RATIONAL AND EQUITABLE USE OF THE GEOSTATIONARY ORBIT WITHOUT PREJUDICE TO THE ROLE OF THE INTERNATIONAL TELECOMMUNICATION UNION (agenda item 4) (A/AC.105/484, A/AC.105/513, A/46/20, A/AC.105/C.2/L.189)

1. The CHAIRMAN, introducing agenda item 4, drew attention to the report of the Legal Subcommittee on the work of its thirtieth session (A/AC.105/484) and, in particular, to chapter II and annex II; the report of the Committee on the Peaceful Uses of Outer Space (A/46/20, paras. 116-125 and 151 (b)); the report of the Scientific and Technical Subcommittee (A/AC.105/513, chap. VI); General Assembly resolution 46/45; and the working paper submitted by the Russian Federation (A/AC.105/C.2/L.189).

2. Mr. PODCHERNIAEV (Russian Federation) said that the working paper submitted by his delegation (A/AC.105/C.2/L.189) was intended to serve as a basis for a constructive exchange of views, even though the outcome of the discussions was not expected to be positive in every respect.

3. Mr. ZAWELS (Argentina) said his delegation believed that it was necessary to determine the limit between airspace and outer space, as each was subject to a different legal regime. It had been pointed out in the Subcommittee that the absence of delimitation had so far not given rise to any practical problems. There were, however, two different positions on the function of the law. The first was that the establishment of rules was necessary only when a problem arose and the second, with which his delegation agreed, was that the function of the law was not only to solve existing problems, but also to anticipate problems which might arise in future.

4. The working paper submitted by the Russian Federation (A/AC.105/C.2/L.189) contained questions concerning the legal regime for aerospace objects and provided a good basis for the consideration of the problem of the legal vacuum with regard to the delimitation of outer space and airspace. His delegation hoped that the Legal Subcommittee would consider the working paper in a spirit of cooperation and not rule out the possibility of requesting the Scientific and Technical Subcommittee to discuss the scientific and technical aspects of the flight of aerospace objects.

5. His delegation continued to be of the opinion that the geostationary orbit was an inseparable part of outer space and a limited natural resource that should be used in a rational and equitable manner. It was therefore opposed to any claim of sovereignty over that orbit and in favour of establishing a special legal regime. It recognized and supported the work being done by the International Telecommunication Union on the allocation of the use of the radio frequency spectrum on the geostationary orbit, but none the less considered that the problems relating to the orbit went beyond that organization's technical terms of reference.

6. In 1991, a number of delegations had submitted a working non-paper on the geostationary satellite orbit (A/AC.105/484, annex II, para. 12) which was of great significance because it did not deal with concepts that had, for many

years, made it impossible to agree on a point of departure for the discussion of the topic. It established a number of general principles and dealt with access, which was an important question in view of the real and potential increase in the number of satellites, particularly communication satellites, in the geostationary orbit. Apart from the inherent limitations of the frequency spectrum used in accordance with ITU regulations, such satellites were limited by the concentration of the satellite population in particular areas, such as the Atlantic. Access to the geostationary orbit had to be equitable and take account of the fact that the less developed space nations which wished, or might wish in future, to have access to the orbit were at a disadvantage compared with the more developed space nations which had been using the geostationary orbit for decades. The problem already existed and could be expected to become more serious in future. Efforts therefore had to be made to find a solution within a legal framework.

7. The working non-paper could also be used as a starting point for the discussion of environmental hazards caused by space debris. The available technical data on that problem indicated that, although there had been no reports of any serious collisions between satellites and space debris, the likelihood of such collisions was increasing and a legal regime therefore had to be established so that States which were utilizing satellites in the geostationary orbit and those which intended to do so in future could avoid major expenditure.

GENERAL EXCHANGE OF VIEWS (continued)

8. Mr. MADDERS (Observer for the European Space Agency) said that the contribution the European Space Agency's ERS-1 satellite, launched in 1991, was making to environmental monitoring had been widely recognized and would be discussed at the World Conference on Environment and Development to be held in Rio de Janeiro in June 1992. In the past year, ESA had concluded some 20 additional agreements with entities around the world providing for their access to and use of environmental data generated by ERS-1. Such progress met applicable international standards relating to the distribution of data, while the content of the agreements on matters such as copyright in respect of data had established a substantial body of legal practice. The European Centre for Space Law, which received support from ESA, was examining the legal implications of such questions and, in the next year, planned to publish its findings on the protection of remote-sensing data rights. It had just held a seminar on the subject at the International Space Year Conference in Munich.

9. Since the Subcommittee's last session, fresh impetus had been given to international cooperation by the ministerial meeting of the Council of the European Space Agency held in Munich in November 1991. The Council had recognized that the changed international situation now enabled and encouraged countries, more than ever before, to pool their space capabilities and resources and it had directed ESA to consider possibilities for cooperation in determining the best means of implementing major hardware development programmes.

10. Broader international cooperation could produce capabilities that would offer significant benefits in terms of access to and the use of outer space. The successful use of such technologies for any length of time was, however,

subject to the qualification that spacecraft should not be exposed to undue levels of risk owing to the presence of space debris. While current levels of risk were still relatively small, ESA had been trying since 1985 to understand how such risk might develop in order to be able to make realistic assessments relating to manned missions and unmanned spacecraft.

11. ESA's early concern in that regard had been the need to predict the re-entry of space objects and the risk of collision in the geostationary orbit. In view of the decision to embark on the Hermes and Columbus manned programmes in 1987, however, it had established a working group in 1986 to produce a comprehensive analysis of space debris hazards. The working group's 1988 report contained a survey of available sources of data; a synthesis of findings drawn from ESA and national studies on the debris situation in the geostationary and low Earth orbits; an evaluation of risks on the ground posed by re-entering uncontrolled space objects; and details of protective and preventive measures. Data from United States sources were also essential for estimates of debris populations and risks of collision. Having received the comprehensive briefing it had sought, the ESA Council had adopted a policy on space debris in 1989 which was designed to minimize the creation of debris; reduce the risk for manned and unmanned space flight; and reduce risk on re-entry; and implement a data acquisition programme.

12. Other relevant aspects were also to be studied in two phases: the first for analysis and preparation and the second for implementation and operations. In the first phase, ESA had established a database for risk assessments and engaged in exchanges of information with other space agencies through direct contacts and in the ESA Space Debris Advisory Group. Exchanges of information had also taken place with United States, Russian and Japanese bodies. ESA had helped to show how effective international cooperation could be on the occasion of the Salyut-7/Kosmos-1686 re-entry, in connection with which the European Space Operations Centre had acted as the central hub for data exchanges between several space organizations.

13. In the second and current phase, preventive measures, such as the venting of Ariane upper stages in sun-synchronous orbit and reorbiting of geostationary spacecraft, were already being implemented. The general knowledge gained during the first phase was serving as a basis for the study of specific issues, including impact analysis of material returned from space; the preparation of generic technologies for the shielding and protection of space vehicles; the investigation and application of debris prevention methods; and the use of optical and radar observation techniques.

14. One of the conclusions reached during the first phase of ESA's space debris activities was that broad international cooperation was essential and should be intensified in the years ahead. Thus, in addition to the efforts it would be making with regard to project cooperation, ESA was advocating cooperation for the purpose of understanding more fully and dealing with the hazards posed by space debris.

The meeting rose at 11.20 a.m.